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EXAMINER

BRUCKART, BENJAMIN R

ART UNIT	PAPER NUMBER
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2155

DATE MAILED: 10/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/017,997

Applicant(s)

BAI ET AL.

Examiner

Benjamin R. Bruckart

Art Unit

2155

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 22 August 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 17-33,39-41,48,49 and 56-58 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 17-33,39-41,48,49 and 56-58 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### **Detailed Action**

Claims 17-33, 39-41, 48-49, 56-58 are pending in this Office Action.

Claims 1-16, 34-38, 42-47, 50-55 have been cancelled.

Claims 17, 18, 29, 31, 39, 48 and 49 are amended.

Claims 57-58 are new.

The 35 U.S.C. 112, second paragraph rejection is withdrawn on claims 29, 31 in light of applicant's amendment.

### **Response to Arguments**

Applicant's arguments filed in the amendment filed 8/22/05 are moot in view of new grounds of rejection.

### **Applicant's invention as claimed:**

#### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

Claims 17, 39, 48 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 17, 39 and 48 recite, "providing to each content publisher statistics corresponding to requests for content. Provided by that content publisher, that is distributed in various caches on the network." Is the content distributed or is the content publisher distributed in various caches. The use of the pronoun "that" leaves this open to be vague and failing to point out the cited limitation.

**Claims 17-18, 48-49, 56 remain rejected under 35 U.S.C. 103(a) as being unpatentable by U.S. Patent No. 6,035,281 by Crosskey et al in view of U.S. Patent No. 5,611,049 by Pitts.**

Regarding claim 17,

the Crosskey reference teaches:

a method for managing content distributed on a network (Crosskey: col. 2, lines 54-64), comprising the steps of:

receiving at a gateway that belongs to a set of one or more gateways (Crosskey: col. 4, line 52; proxy server), activity records that contain statistics about requests for content that resides at a plurality of locations distributed on the network (Crosskey: col. 5, lines 34-47), wherein the content provided by a plurality of content publishers (Crosskey: col. 3, line 20; col. 4, line 51);

segregating the statistics based on which content publisher provided the content associated with the statistics (Crosskey: col. 6, lines 18-34); and

providing to each content publisher statistics corresponding to requests for content, provided by that content publisher, that is distributed in various caches on the network (Crosskey: col. 5, lines 35-40; certain information about the request; col. 11, lines 32-35).

The Crosskey reference does not explicitly state a plurality of caches.

The Pitts reference teaches a plurality of caches (Pitts: col. 6, lines 44-53).

The Pitts reference further teaches the use of an intermediate storage location, cache, reduces delays (Pitts: col. 2, lines 4-11).

Therefore it would have been obvious at the time of the invention to one of ordinary skill in the art to create a method of managing content distributed on a network as taught by Crosskey while employing caches as taught by Pitts in order to reduce delays in serving requests for content.

Claim 18 is rejected under the same rationale given above. In the rejections set fourth, the examiner will address the additional limitations and point to the relevant teachings of Crosskey et al and Pitts.

Regarding claim 18, the method of claim 17, further comprising, prior to the step of providing statistics to each content publisher, the step of: creating an activity log comprising statistics only corresponding to content provided by a specific content publisher, that is distributed in various caches on the network (Crosskey: col. 5, lines 34-46; col. 11, lines 1-26; activity logs are made and collection information on usage about sites and providers).

Regarding claim 39, an apparatus for monitoring requests for content distributively on a network (Crosskey: col. 2, lines 54-64), comprising:

a memory (Crosskey: col. 5, line 39);

a network interface configured for receiving activity records that contain statistics about requests for content that resides in caches at a plurality of locations distributed on the network (Crosskey: col. 5, lines 34-47; Fig. 1), wherein the content provided by a plurality of content publishers (Crosskey: col. 5, line 51); and one or more processors coupled to the memory and the

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network interface and configured to execute one or more sequence of instructions (Crosskey: col. 1, line 17-18; col. 4, line 51-52) for segregating the statistics based on which content publisher provided the content associated with the statistics (Crosskey: col. 6, lines 18-34) and providing to each content publisher statistics corresponding to requests for content (Crosskey: col. 5, lines 35-40; certain information about the request) provided by that content publisher, that is distributed in various caches on the network (Crosskey: col. 11, lines 32-35).

The Crosskey reference does not explicitly state a plurality of caches.

The Pitts reference teaches a plurality of caches (Pitts: col. 6, lines 44-53).

The Pitts reference further teaches the use of an intermediate storage location, cache, reduces delays (Pitts: col. 2, lines 4-11).

Therefore it would have been obvious at the time of the invention to one of ordinary skill in the art to create a method of managing content distributed on a network as taught by Crosskey while employing caches as taught by Pitts in order to reduce delays in serving requests for content.

Regarding claim 48,

the Crosskey reference teaches:

a computer-readable medium carrying one or more sequences of instructions for monitoring requests for content distributively on a network (Crosskey: col. 2, lines 54-64), wherein execution of the one or more sequences of instructions by one or more processors causes the one or more processors (Crosskey: col. 1, line 17-18; col. 4, line 51-52) to perform the steps of:

receiving at a gateway that belongs to a set of one or more gateways (Crosskey: col. 2, line 52), activity records that contain statistics about requests for content that resides in caches at a plurality of locations distributed on the network (Crosskey: col. 5, lines 34-47), wherein the content provided by a plurality of content publishers (Crosskey: col. 5, line 51);

segregating the statistics based on which content publisher provided the content associated with the statistics (Crosskey: col. 6, lines 18-34); and providing to each content publisher statistics corresponding to requests for content (Crosskey: col. 5, lines 35-40; certain information about the request) provided by that content publisher, that is distributed in various caches on the network (Crosskey: col. 11, lines 32-35).

The Crosskey reference does not explicitly state a plurality of caches.

The Pitts reference teaches a plurality of caches (Pitts: col. 6, lines 44-53).

The Pitts reference further teaches the use of an intermediate storage location, cache, reduces delays (Pitts: col. 2, lines 4-11).

Therefore it would have been obvious at the time of the invention to one of ordinary skill in the art to create a method of managing content distributed on a network as taught by Crosskey while employing caches as taught by Pitts in order to reduce delays in serving requests for content.

Claim 49 is rejected under the same rationale given above. In the rejections set fourth, the examiner will address the additional limitations and point to the relevant teachings of Crosskey et al and Pitts.

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Regarding claim 49, the computer-readable medium of claim 48, wherein execution of the one or more sequences of instructions by one or more processors causes the one or more processors to perform, prior to the step of providing statistics to each content publisher, the step of: creating an activity log comprising statistics corresponding only to content provided by a specific content publisher, that is distributed in various caches on the network (Crosskey: col. 5, lines 34-46; col. 11, lines 1-26; activity logs are made and collection information on usage about sites and providers).

Regarding claim 56,

the Crosskey reference teaches:

a method for improving communication among a plurality of parties providing distribution services over a network for content at a plurality of locations (Crosskey: col. 2, lines 54-64), comprising:

using a cooperative organization to allow a content publisher to monitor access to content provided by the content publisher not controlled by the content publisher (Crosskey: col. 5, lines 34-47), by providing to each content publisher of a plurality of content publishers (Crosskey: col. 4, line 51), information about requests for access to the content provided by that content publisher (Crosskey: col. 11, lines 32-35), the information being collected and aggregated by the cooperative organization according to which content publisher provided the content associated with the information (Crosskey: col. 5, lines 34-47).

The Crosskey reference does not explicitly state a plurality of caches.

The Pitts reference teaches a plurality of caches (Pitts: col. 6, lines 44-53).

The Pitts reference further teaches the use of an intermediate storage location, cache, reduces delays (Pitts: col. 2, lines 4-11).

Therefore it would have been obvious at the time of the invention to one of ordinary skill in the art to create a method of managing content distributed on a network as taught by Crosskey while employing caches as taught by Pitts in order to reduce delays in serving requests for content.

**Claims 26-31, 40-41, 57 are rejected under 35 U.S.C. 103(a) as being unpatentable by U.S. Patent No. 6,035,281 by Crosskey et al in view of U.S. Patent No. 5,611,049 by Pitts in further view of U.S. Patent No. 6,516,416 by Gregg et al.**

Regarding claim 26,

The Crosskey and Pitts references teach the method of claim 17.

The Crosskey and Pitts references do not explicitly state gateway controlled by the cooperative.

The Gregg reference teaches:

wherein a group of network service providers are associated as a cooperative that provides network services (Gregg: col. 1, lines 63-67), and wherein the step of providing statistics is performed by transmitting the statistics to a gateway controlled by the cooperative (Gregg: col. 4, lines 46-62).

The Gregg reference further teaches it generates revenue from subscription services while protecting assets from untrusted network (Gregg: col. 1, lines 12-20).

Therefore it would have been obvious at the time of the invention to one of ordinary skill in the art to create a method of managing content distributed on a network as taught by Crosskey and Pitts while employing a cooperative to control the gateway as taught by Gregg in order to generates revenue from subscription services while protecting assets from untrusted network (Gregg: col. 1, lines 12-20).

Claim 27-31 are rejected under the same rationale given above. In the rejections set fourth, the examiner will address the additional limitations and point to the relevant teachings of Crosskey, Pitts and Gregg.

Regarding claim 27, the method of claim 26 wherein at least one member of the cooperative is from a group consisting of a network owner, a telecommunications carrier, a network access provider, a content hosting provider, and a distribution network owner that caches content at a plurality of locations distributed on the network (Crosskey: col. 2, lines 54-64; Gregg: col. 3, lines 62- col. 4, line 33).

Regarding claim 28, the method of claim 26, further comprising the steps of: receiving, by a trusted third party, revenue for the network services provided (Crosskey: col. 10, lines 38-40; col. 11, lines 6-16); and distributing the revenue to members of the cooperative based on member contribution to the network services provided (Crosskey: col. 10, lines 38-40; col. 11, lines 6-16).

Regarding claim 29, the method of claim 28 wherein the step of distributing the revenue to members of the cooperative is based on the quality of performance of the member contribution to the network services provided (Crosskey: col. 11, lines 26-35).

Regarding claim 30, the method of claim 26, further comprising the steps of: receiving, by the cooperative, revenue for the network services provided (Crosskey: col. 10, lines 38-40; col. 11, lines 6-16); distributing the revenue to members of the cooperative based on member contribution to the network services provided (Crosskey: col. 10, lines 38-40; col. 11, lines 6-16).

Regarding claim 31, the method of claim 30 wherein the step of distributing the revenue to members of the cooperative is based on the quality of performance of the member contribution to the network services provided (Crosskey: col. 11, lines 26-35).

Regarding claim 40,

The Crosskey and Pitts references teach the apparatus of claim 39.

The Crosskey and Pitts references do not explicitly state gateway controlled by the cooperative.

The Gregg reference teaches:

wherein a group of network service providers are associated as a cooperative organization that provides network services, and wherein the apparatus is managed by the cooperative organization (Gregg: col. 4, lines 46-62).

The Gregg reference further teaches it generates revenue from subscription services while protecting assets from untrusted network (Gregg: col. 1, lines 12-20).

Therefore it would have been obvious at the time of the invention to one of ordinary skill in the art to create a method of managing content distributed on a network as taught by Crosskey and Pitts while employing a cooperative to control the gateway as taught by Gregg in order to generates revenue from subscription services while protecting assets from untrusted network (Gregg: col. 1, lines 12-20).

Claim 41 is rejected under the same rationale given above. In the rejections set fourth, the examiner will address the additional limitations and point to the relevant teachings of Crosskey, Pitts and Gregg.

Regarding claim 41, the apparatus of claim 40 wherein at least one member of the cooperative organization is from a group consisting of a network owner, a telecommunications carrier, a network access provider, and a distribution network owner that caches content at a plurality of locations distributed on the network (Crosskey: col. 2, lines 54-64; Gregg: col. 1, lines 63-67).

Regarding claims 57, the method of claim 17, extracting from the activity records demographic information about those who request the content (Gregg: col. 1, lines 10-20).

**Claims 19-24 are rejected under 35 U.S.C. 103(a) as being unpatentable by U.S. Patent No. 6,035,281 by Crosskey et al in view of U.S. Patent No. 5,611,049 by Pitts in further view of U.S. Patent No. 6,018,619 by Allard et al.**

Regarding claim 19,

The Crosskey and Pitts references teach the method of claim 17 where the distribution network caches content at a plurality of locations distributed on the network (Crosskey: col. 5, lines 51; Pitts: col. 6, lines 44-53).

The Crosskey and Pitts references do not explicitly state receiving activity records from distribution servers that received from access gateways.

The Allard reference teaches:

the step of receiving activity records comprises receiving the activity records from one or more distribution network servers that received the activity records from one or more access provider gateways (Allard: col. 5, lines 36-63; col. 6, lines 54-64).

The Allard reference further teaches this way a more complete and accurate usage-tracking log is created while achieving greater overall system throughout (Allard: col. 5, lines 66-67).

Therefore it would have been obvious at the time of the invention to one of ordinary skill in the art to create a method of managing content distributed in caches as taught by Crosskey and Pitts while employing sharing and aggregating activity records as taught by Allard in order to have a more complete and accurate tracking log.



Claims 20-24 are rejected under the same rationale given above. In the rejections set forth, the examiner will address the additional limitations and point to the relevant teachings of Crosskey, Pitts, and Allard.

Regarding claim 20, the method of claim 19 network servers wherein the step of receiving the activity records from one or more distribution comprises receiving activity records originating at one or more edge servers (Allard: col. 5, lines 36-63).

Regarding claim 21, the method of claim 19 further comprising the step of: aggregating the activity records from a plurality of edge servers at the one or more access provider gateways (Allard: col. 5, lines 36-63).

Regarding claim 22, the method of claim 17 wherein the step of receiving activity records comprises receiving activity records originating at one or more edge servers (Allard: col. 5, lines 36-63).

Regarding claim 23, the method of claim 17 wherein the content publisher can monitor, based on the statistics, requests for access to its content that is cached at a plurality of locations distributed on the network (Crosskey: col. 5, lines 34-47).

Regarding claim 24, the method of claim 17 wherein the step of receiving activity records comprises receiving the activity records from one or more access provider gateways (Allard: col. 5, lines 36-63; col. 6, lines 54-64).

**Claims 25, 32-33 are rejected under 35 U.S.C. 103(a) as being unpatentable by U.S. Patent No. 6,035,281 by Crosskey et al in view of U.S. Patent No. 5,611,049 by Pitts in further view of U.S. Patent No. 6,018,619 by Allard et al in further view of U.S. Patent No. 6,760,763 by Jennings et al.**

Regarding claim 25,

The Crosskey and Pitts references teach the method of claim 17 wherein activity records are received that are related to requests for content provided by two or more content publishers that is cached at a plurality of locations distributed on the network.

The Crosskey and Pitts references do not explicitly state forwarding the activity records.

The Allard reference teaches:

forwarding the activity records to a trusted third party.

The Jennings reference teaches:

wherein the third party aggregates the activity records based on which content publisher provided the content associated with the statistics (Jennings: col. 3, lines 51- col. 4, line 2); and wherein the step of providing statistics is performed by the third party by transmitting the statistics to a gateway at one or more hosting providers associated with that content publisher (Jennings: col. 3, lines 66-67).

The Allard reference further teaches this way a more complete and accurate usage-tracking log is created while achieving greater overall system throughput (Allard: col. 5, lines 66-67).

The Jennings reference further teaches the invention load balances to reduce the time it takes for a client to obtain the contents (Jennings: col. 1, lines 11-25).

Therefore it would have been obvious at the time of the invention to one of ordinary skill in the art to create a method of managing content distributed in caches as taught by Crosskey and Pitts while employing sharing and aggregating activity records and load balancing based on logs as taught by Allard and Jennings in order to have a more complete and accurate tracking log to reduce the time to resolve requests.

Claims 32-33 are rejected under the same rationale given above. In the rejections set fourth, the examiner will address the additional limitations and point to the relevant teachings of Crosskey, Pitts, Allard, and Jennings.

Regarding claim 32, the method of claim 17 further comprising the steps of: receiving at a second gateway an activity log comprising statistics corresponding to content provided by a specific content publisher (Jennings: col. 3, lines 61- col. 4, line 2; Crosskey: col. 6, lines 18-34); and transmitting the activity log to the content publisher (Jennings: col. 5, lines 49-631).

Regarding claim 33, the method of claim 32 wherein the step of transmitting the activity log to the content publisher is in response to a request from the content publisher (Crosskey: col. 5, lines 40-57).

**Claim 58 is rejected under 35 U.S.C. 103(a) as being unpatentable by U.S. Patent No. 6,035,281 by Crosskey et al in view of U.S. Patent No. 5,611,049 by Pitts in further view of U.S. Patent No. 6,012,038 by Powell.**

Regarding claim 58,

The Crosskey and Pitts references teach the method of claim 17.

The Crosskey and Pitts references do not explicitly state geographic usage logs.

The Powell reference teaches activity records geographic and demographic information (Powell: col. 6, lines 31-53).

The Powell reference further teaches the usage data is used to make marketing data and determine program effectiveness and use (Powell: col. 6, lines 41-59).

Therefore it would have been obvious at the time of the invention to one of ordinary skill in the art to create a method of managing content distributed on a network as taught by Crosskey and Pitts while employing geographic and demographic data as taught by Powell in order to make marketing data and determine program effectiveness and use (Powell: col. 6, lines 41-59).

## **REMARKS**

Applicant has amended independent claims 17, 39, and 48 to claim the statistics corresponding to request for content and has argued the amendments and dependent claims.

**The Applicant Argues:**

1. Claim 17: The Crosskey and Pitts do not teach “statistics corresponding to requests for content provided by that content publisher, that is distributed in various caches on the network.”
2. Claims 28 and 30, receiving revenue and distributing it among the cooperative.

**In response**, the examiner respectfully submits:

The Crosskey and Pitts reference still teach the cited limitations. Although applicant has pointed out some good points and differences, the claims are still broad and the references of record and others read openly upon the claims. Applicant argues the dependent claim is allowable. The examiner states that a claim is only allowable when it is written in independent form.

1. Crosskey teaches keeping a log and storing the statistics about requests for content provided by each publisher (Crosskey: col. 5, lines 35-40; certain information about the request). Statistics are the usage statistics and commerce statistics associated with the usage (Crosskey: col. 5, lines 35-40; col. 11, lines 19-35). There is a rejection about the use of the pronoun “that” in the amended independent claims. While examiner believes, applicant means “that” as similarly used in claim 18, the rejection is made for clarification purposes. The requests are for content that is distributed on the network as tracked by URL (Crosskey: col. 5, lines 58-63). The content can be stored at other web servers or on caches as taught with the obvious combination with the Pitts reference. Crosskey mentions pulling content from a cache in col. 12, lines 2-25 and Pitts teaches the use of content on distributed caches.

2. The Crosskey teaches billing and crediting users and providers for services based on usage data (Crosskey: col. 10, lines 15-67). The intent is to bill the user for accessing and using the content provider’s resources. Although revenue is not received, it would have been obvious to one of ordinary skill in the art to see Crosskeys billing cycle (monthly) and billing formula and employing receiving and distributing the revenue to providers and users based on the crediting of services.

*Conclusion*

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Benjamin R. Bruckart whose telephone number is (571) 272-3982. The examiner can normally be reached on 8:00-5:30PM with every other Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Saleh Najjar can be reached on (571) 272-4006. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Benjamin R Bruckart  
Examiner  
Art Unit 2155

BRS

  
SALEH NAJJAR  
SUPERVISORY PATENT EXAMINER